

STATEMENT OF NEED AND REASONABLENESS

Minnesota Rules regarding the operation of banks are being modified to facilitate changes in the industry.

With the repeal of Minnesota Statutes, section 48.19, in 1985, Minnesota state chartered banks must, by rule, (MR 2675.0901 REAL ESTATE LOANS-DOCUMENTATION) obtain certain documentation on all loans over \$7,500 secured by real estate. This documentation includes: an attorney's opinion or a title insurance policy; evidence of adequate insurance coverage with loss payable clause payable to the bank; a real estate appraisal.

With the Tax Reform Act of 1986 stripping interest deductions for tax purposes on personal loans not secured by real estate, there is created a demand to have otherwise unsecured personal loans secured by real estate. However, neither the banker nor the borrower wishes to assume the expense of the required documentation and bankers have cited a competitive cost disadvantage under present rule. The required documentation is a safety and soundness concern and should be maintained; however, where it can be demonstrated that the bank is not relying on the real estate security for protection, it can be argued that the documentation requirement becomes form over substance and not a safety and soundness concern.

The value of the property, the bank's lien position, and protection of the property from hazards, is important whether the bank is looking to the property as collateral protection or as a precaution against contingencies. Therefore, Minnesota Rule 2675.0901 is being amended to increase the documentation exception to \$25,000 and by deleting "or not otherwise exempt from the definition of real estate in Minnesota Statutes, section 48.19, subdivision 4."

From time to time it is necessary and often a prudent business decision to expend funds to complete or permanently improve property acquired by foreclosure. Minnesota Rule 2675.2170 Other Real Estate by interpretation requires such expenditures to be charged to expense rather than to be capitalized to other real estate. A more accurate accounting record is achieved by capitalization of such expenditures, although for safety and soundness reasons restrictions should be placed on the total amount of such an investment in other real estate improvements.

Minnesota Rule 2675.2170 OTHER REAL ESTATE (C) is being amended so that the awkward language found in Minnesota Statutes, section 48.21, subdivision 3, can be corrected by changing five years to ten years and a paragraph F is being added to permit limited investment in improvements to property acquired through foreclosure.

Minnesota Rule 2675.2600 Internal Audit Control is being amended by adding a subpart 2 requiring the designation of one or more officers as a contact person for the resolution of customer complaints. The rule also requires that individual complaint files be established and maintained for a minimum period of 18 months. The Financial Examinations Division of the Department of Commerce receives on average fifteen (15) letters of complaint involving financial institutions each month. Most often letters are written to the president of the involved institution asking for investigation and response. Additionally, follow up is often made as a part of regularly scheduled safety and soundness examinations which are required by statute to be conducted within 18 month cycles. This rule establishes a contact person for handling complaints and a means for the Financial Examination Division to evaluate the financial institution's quality control and responsiveness.

Minnesota Rule 2675.2610, subpart 2, is being deleted and the remaining parts renumbered due to the confusion caused by its applicability to directors' examinations performed by outside parties.

IMPACT ON SMALL BUSINESS

It is not contemplated that the rule modifications will have an affect on small business. On December 12, 1988, Notice to Solicit Outside Opinion Regarding Proposed Rules and Amendments to Existing Rules Regarding Banking Including the Impact of the Rules on Small Business, was published in the State Register pursuant to the provisions of Minn. Stat. § 14.10. Seven responses were received as follows:

1. Commenter supports proposal to amend 2675.0901 to 2675.2170, as to 2675.2170 F. Commenter asks that more liberal language be adopted such as that in Comptroller's IR 7.3025 (j) which provides that if ORE owned is unfinished construction, further prudent advances to complete the project may be included in ORE. However, such additional advances may not be capitalized unless the bank maintains on file evidence that the advances will result in a more salable property and are recoverable.
2. Commenter supports proposal to amend 2675.0901 from \$7,500 to \$50,000. Commenter asks that 2675.2170 be amended from five years to at least ten years. As to 2675.2170 F, commenter asks that rules be drafted to permit prudent action.
3. Commenter asks that 2675.0901 be amended to increase documentation exception from \$7,500 to \$25,000. Also, that 2675.2170 be amended to permit ORE to be held for ten years.
4. Commenter supports increase in documentation exception from \$7,500 to \$25,000.
5. Commenter asks that documentation exception be increased from \$7,500 to \$10,000 or more.
6. Commenter supports need for outside appraisals.
7. Commenter supports OCC IR 7.300 (j) for capitalization to ORE.